

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

LAVERL JOHNSON

PLAINTIFF

V.

CIVIL ACTION NO.2:05CV-79-WAP-JAD

STATE OF MISSISSIPPI, et al

DEFENDANTS

REPORT AND RECOMMENDATION

This action was set for a *Spears* hearing on July 29, 2005, by order of the court of May 26, 2005. The plaintiff failed to appear for the hearing. The undersigned recommends that this action be dismissed for failure to prosecute.

The parties are referred to 28 U.S.C. 636(b)(1) and Local Rule 72.2(D) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten days of this date. Failure to file written objections to the proposed finding and recommendations contained in this report within ten days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Petitioner is directed to acknowledge receipt of this report and recommendation by signing the enclosed acknowledgment form and returning it to the court within ten days of this date. Petitioner is warned that failure to comply with the requirements of this paragraph may lead to the

dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

This the 2nd day of August, 2005.

/s/ JERRY A. DAVIS
UNITED STATES MAGISTRATE JUDGE